

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 31, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP2195

Cir. Ct. No. 2013CV206

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

CHARTER BANK EAU CLAIRE,

PLAINTIFF-RESPONDENT,

V.

KINGBUILT.COM INC. AND JEFFREY D. BECHARD,

DEFENDANTS,

RYAN T. BECHARD,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Eau Claire County: JON M. THEISEN, Judge. *Affirmed.*

Before Hoover, P.J., Mangerson and Stark, JJ.

¶1 PER CURIAM. Ryan Bechard, pro se, appeals a default judgment. At issue is whether the circuit court erroneously exercised its discretion by denying a motion to enlarge the time to answer, and by failing to reopen the default judgment. We affirm.

¶2 Charter Bank Eau Claire commenced foreclosure proceedings against Kingbuilt.Com Inc. Charter Bank also sought to enforce an associated personal guarantee against Bechard. After a hearing, the circuit court granted a default judgment to Charter Bank and against Kingbuilt.Com and Bechard. The court denied Bechard's request for an extension of time to answer the complaint, which was filed after the time for answering the complaint had expired.¹ The mortgaged property was sold at a sheriff's sale and the court issued an order confirming sale. Motions requesting relief from the judgment and various other forms of relief were denied. Bechard now appeals.

¶3 We will not reverse a default judgment or an order denying a motion to reopen a judgment, unless the circuit court erroneously exercised its discretion.² When an act is required to be done at or within a specified time, the court may order the period enlarged but only on motion for cause shown and upon just terms. WIS. STAT. § 801.15(2)(a).³ If the motion is made after the expiration of the

¹ Bechard's request for an extension of time to answer the complaint was filed in his individual capacity. No answer or request for an extension of time to answer was filed on behalf of Kingbuilt.Com Inc. As a result, this appeal does not address issues related to Kingbuilt.Com.

² Charter Bank uses the phrase "abuse of discretion." Our supreme court changed the terminology used in reviewing a circuit court's discretionary act from "abuse of discretion" to "erroneous exercise of discretion" in 1992. See *State v. Plymesser*, 172 Wis. 2d 583, 585-86 n.1, 493 N.W.2d 367 (1992).

³ References to Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

specified time, it shall not be granted unless the court finds that the failure to act was the result of excusable neglect. *Id.*

¶4 Here, Bechard failed to file an answer or other responsive pleading within the specified time. Subsequently, Bechard requested an enlargement of time, stating nonspecifically: “I have only a couple nights and weekends to work on this during the week as I work out of town. The complaint is very long and extremely complex. I wish to be granted the maximum allowed time to process this complaint.”

¶5 The court held a hearing on July 8, 2013. The court’s written “Order For Judgment and Judgment” states it was issued “for the reasons stated on the record,” but there is no transcript of the hearing in the record on appeal. It is the appellant’s responsibility to provide us with a record that is sufficient to review the issues raised. *See Butcher v. Ameritech Corp.*, 2007 WI App 5, 298 Wis. 2d 468, 727 N.W.2d 546. Because Bechard has not provided us with a transcript, we must assume that every fact essential to sustain the circuit court’s exercise of its discretion is supported by the record. *See id.* Without a transcript, we cannot review the court’s determinations. We conclude Bechard has not shown the court erroneously exercised its discretion.

¶6 Additionally, in his brief to this court,⁴ Bechard merely raises a variety of issues related to the merits of Charter Bank’s lawsuit but unrelated to the default judgment or the denial of Bechard’s motion to reopen the judgment.

⁴ Bechard failed to file a reply brief.

However, review of those issues would have no effect on the results of this appeal in the absence of a timely filed answer or other responsive pleading.

By the Court.—Judgment and order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

